

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16165
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On September 7, 2001, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1996 in the total amount of \$443.

On October 3, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information showing the taxpayer sold real property in Idaho in 1996. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for the taxable year 1996. Idaho Code section 63-3026A(3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho.

The Bureau sent the taxpayer letters asking the taxpayer about the sale of the Idaho property and his requirement to file an Idaho income tax return. The taxpayer responded with a copy of his federal form 6252 showing an installment sale of his personal residence. The Bureau used this information to prepare a 1996 Idaho individual income tax return for the taxpayer. The Bureau then sent the taxpayer a Notice of Deficiency Determination.

The taxpayer responded to the Notice of Deficiency Determination with a letter and check for the payment of the tax stated in the Notice of Deficiency Determination. The taxpayer stated he would pay the tax the Bureau claimed he owed but that he would not be held responsible for the incompetence and tardiness of the Tax Commission and disallowed the interest and penalty. The Bureau considered the taxpayer's statements as a protest and sent the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond to the Tax Commission's letter. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer lived in Idaho for several years prior to 1996. In October 1995, the taxpayer left Idaho; therefore, in 1996, the taxpayer was a nonresident of Idaho. Idaho Code section 63-3002 states that nonresidents are taxed on the income they receive from Idaho sources. The Tax Commission reviewed the return the Bureau prepared for the taxpayer and noticed the taxpayer was taxed on the amount of the gain reported on the taxpayer's form 6252 and interest income believed to be from the contract of the installment sale.

Idaho Code section 63-3026A provides the method for computing the taxable income of nonresident individuals. As part of the computation, the taxpayer is entitled to a proportion of his exemptions and standard or itemized deductions in the ratio that his Idaho source income bears to his total income. On the return the Bureau prepared, the Bureau did not allow the taxpayer a portion of his personal exemption or standard deduction. [Redacted]

The taxpayer's appeal, however, seemed to be centered on the addition of the penalty and interest by the Bureau. The taxpayer made the claim that the Tax Commission was incompetent and tardy in identifying the taxpayer's error of not filing an Idaho income tax return.

The Tax Commission would like to be able to notify all taxpayers of their filing requirement and/or omissions within a short time after the due date of the return. However, the information to make that determination is not available to the Tax Commission at the due date of the return. The Idaho Code does provide for a statute of limitations for making changes to taxpayers' returns. However, in this case, the taxpayer did not file a return and the statute of limitations period never started.

The taxpayer appears to be placing the responsibility on the Tax Commission to tell him of his requirement to file. However, it is the taxpayer's responsibility to become familiar with the laws of the state where he is a resident or is domiciled. If the taxpayer chooses not to become familiar with the tax laws, there are tax professionals who can be hired to prepare his income tax returns. Nevertheless, it is the taxpayer's responsibility to file his return by the due date required in the law.

The taxpayer's 1996 return resulted in tax owed to the state of Idaho. Idaho Code section 63-3045 states that interest shall be added to any tax that is not paid by the due date of the return reporting the tax. Since the taxpayer did not pay the tax owed by the due date of the return, the Tax Commission finds the addition of interest proper and in accordance with Idaho Code section 63-3045 and the Idaho Supreme Court's decision in Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983).

Idaho Code section 63-3046 states that if a return required by the Idaho income tax act is not filed by the due date of the return, a penalty of 5% per month to a maximum of 25% may be assessed and collected. The taxpayer's 1996 return was due on April 15, 1997. The Tax Commission has yet to receive a 1996 return from the taxpayer. Therefore, the Tax Commission finds the addition of the 25% delinquency penalty to the taxpayer's Idaho income tax proper and in accordance with Idaho Code section 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated September 7, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$153	\$38	\$56	\$247
			Less Payment	(247)
			Balance	<u>\$ 0</u>

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No. [Redacted]

[Redacted] [Redacted]

ADMINISTRATIVE ASSISTANT 1